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TOWNSHIP OF LOWER, COUNTY OF CAPEMAY, STATE OF NEW JERSEY

ORDINANCE #2013-07

AN ORDINANCE ESTABLISHING A SOURCE SEPARATION AND RECYCLING POLICY FOR TOWNSHIP OF LOWER

WHEREAS, the New Jersey Statewide Mandatory Source Separation and Recycling Act establishes a goal of 50% reduction of Municipal Solid Waste and a 60% reduction of all solid waste through source separation and recycling by residential, commercial and institutional establishments in all New Jersey municipalities; and

WHEREAS, the Cape May County Solid Waste Management Plan designates the lists of mandatory and recommended recyclables to be source separated for recycling in all sectors of the community; and

WHEREAS, recycling will reduce the municipality's expense of solid waste disposal, conserve energy and valuable resources, extend the life of Cape May County's only landfill and has the potential to produce revenues from the sale of such recyclable materials.

NOW, THEREFORE, BE IT ORDAINED by the Township of Lower, County of Cape May, State of New Jersey as follows:

SECTION 1-

Article II, Section 570-8 through 570-17, of Chapter 570 shall be deleted in its entirety and replaced by the following:

SECTION 2 – SHORT TITLE

This chapter shall be known and may be cited as the "Township of Lower Recycling Program Ordinance."

SECTION 3 – DEFINITIONS

For the purpose of this subchapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

"Designated Recyclable Materials" - means those materials designated within the Cape May County Solid Waste Management Plan to be Source Separated for the purpose of recycling by residential, commercial, institutional and industrial sectors. The recycling of these materials is **mandatory**; they cannot be disposed of as solid waste. The Source Separated Recyclable Materials that are mandated for recycling are organized into the following two categories, which include but are not limited to:

Category 1: Designated Recyclable Materials To Be Set Out At Curbside:

- (a) The following Source Separated Recyclable Materials shall be mixed together and set out at curbside for collection; this set out and collection system shall be known as “Single Stream Collection”. The following items are included as “Single Stream Recyclable Materials”:

Paper Products – Newspaper with inserts, magazines, office paper, junk mail including shredded paper, telephone and paperback books, corrugated cardboard, brown paper bags, non-foil wrapping paper, and chipboard packaging including but not limited to dry food boxes (cereal, rice, pasta, cookie and cracker), gift, shoe and tissue boxes, powdered detergent boxes, paper towel rolls, clean pizza boxes (no food debris) and cardboard beverage carriers. Remove and throw away all liner bags, food contaminated paper and waxed-coated cardboard boxes. Shredded paper may be placed in a clear plastic bag.

Glass, Food and Beverage Containers – Clear, green and brown food and beverage bottles and jars, excluding however, blue bottles, window glass and light bulbs. All food and liquid residue shall be removed from containers.

Metal Food and Beverage Containers – Aluminum and steel food and beverage containers 5 gallons or less in size, including empty aerosol cans. No paint cans. All food and liquid residue shall be removed from containers.

Plastic Containers – Plastic containers imprinted with a ♻️ (PETE), ♻️ (HDPE), ♻️ (PVC), ♻️ (LDPE), ♻️ (PP), ♻️ (PS) or ♻️ (Other) on the bottom, 5 gallons or less in size, including bottles, jugs, jars and other rigid plastic containers. Plastic containers from food, beverage, health, beauty and cleaning products are included. Examples include, but are not limited to; margarine tubs, microwave trays, yogurt containers, plastic buckets and landscape pots. No Styrofoam packaging. No polystyrene egg cartons. No beverage cups. No PVC pipe. No plastic film. No plastics which contained chemicals or hazardous products, such as motor oil or pesticide containers. All food and liquid residue shall be removed from containers.

Category 2: Designated Materials to Be Recycled by the Individual Generator or Municipality via Drop-off at Cape May County Municipal Utilities Authority (CMCMUA) or Private NJDEP Approved Recycling Facilities, as applicable:

- (a) Christmas Trees – Free of decorations, tree stands and plastic bags;
- (b) Leaves – Comprised mainly of tree and plant leaves and not contaminated with brush or other material; and
- (c) Grass - Lawn grass clippings.

- (d) Brush, Tree Branches and Stumps – All parts of vegetative growth from trees, and vegetative materials generated during land clearing;
- (e) Ferrous and Non-Ferrous Scrap – Metals, such as copper, iron, sheet metal, aluminum, radiators, structural steel, metal pipe and “white goods” including, but not limited to, appliances containing “CFC’s” or Freon;
- (f) Computers and Consumer Electronics – shall mean a computer central processing unit and associated hardware including keyboards, modems, printers, scanners and fax machines, cathode ray tubes, cathode ray tube devices, flat panel displays or similar video display devices with a screen that is greater than 4 inches measured diagonally and that contains one or more circuit boards including, but not limited to, televisions and cell phones. Also includes VCR’s, radios and landline telephones;
- (g) Motor Oil / Kerosene / # 2 Heating Oil - Crank-case oil and similar oils, kerosene fuel and #2 home heating oil which are used to fuel heating equipment;
- (h) Wood Pallets and Crates – Clean untreated, unpainted pallets and crates only;
- (i) Batteries - Lead Acid Batteries – Used SLA (sealed lead acid) batteries generated from motor vehicles, aviation and marine equipment;
- (j) Propane Tanks – Empty 20 to 30 lb. BBQ type tanks;
- (k) Contaminated Soil – If classified as ID27, all fuel contaminated soil, dewatered soil, and stone from septic beds and similar materials which are allowed to be recycled in accordance with the regulations of the New Jersey Department of Environmental Protection;
- (l) Commercial Cooking Grease – Grease and oil generated from food preparation by commercial sources only;
- (m) Asphalt and Concrete – Asphalt and concrete materials from construction and demolition projects;
- (n) Auto and Truck Bodies – All junk automobiles, trucks and parts;
- (o) Tires – Worn truck and passenger car tires;
- (p) Used Oil Filters – Used filters that are generated from changing crankcase oil in automobiles, trucks and other vehicles;
- (q) Anti-freeze – Used antifreeze generated from automobiles, trucks and other vehicles/sources; and

(r) Consumer Rechargeable NiCad (Nickel-Cadmium) and Small Sealed Lead Acid Batteries – Small sealed batteries generated from use of electronic equipment.

“Municipal Recycling Coordinator” - means the person or persons appointed by the municipal governing body and who shall be authorized to enforce the provisions of this Ordinance, and any rules and regulations which may be promulgated hereunder. This appointee shall also be responsible to assure that all materials recycled in the municipality are properly reported and recorded. The New Jersey Mandatory Source Separation and Recycling Act requires that each municipality appoint at least one individual as Municipal Recycling Coordinator who has successfully completed all requirements mandated by the State of New Jersey to be designated as a New Jersey Certified Recycling Professional;

“Municipal Solid Waste (MSW) Stream” - means all solid waste generated at residential, commercial and institutional establishments within the boundaries of the Township of Lower;

“NJDEP” - means the New Jersey Department of Environmental Protection;

“Recommended Recyclable Materials” – means those materials recommended within the Cape May County Solid Waste Management Plan to be Source Separated for the purpose of recycling by residential, commercial, institutional and industrial sectors. The Source Separated Recyclable Materials that are recommended for recycling are:

“Recyclable” or “Recyclable Material” - means those materials which would otherwise become solid waste, and which may be collected, separated, or processed and returned to the economic mainstream in the form of raw materials or products;

“Source Separation” - means the process by which recyclable materials are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling;

“Source Separated Recyclable Materials” - means recyclable materials which are separated at the point of generation by the generator thereof from solid waste for the purposes of recycling.

SECTION 4 - APPLICABILITY OF MANDATORY SOURCE SEPARATION AND RECYCLING REQUIREMENTS

- A. Mandatory Source Separation: It shall be mandatory for all persons who are owners, lessees, tenants or occupants of residential and non-residential premises, including but not limited to retail and commercial locations, government, schools and other institutional locations within Township of Lower, to separate Designated Recyclable Materials from all solid waste.

- 1) **Category 1** Designated Recyclable Materials shall be placed at the curb in a manner and on such days and times as may be hereinafter established by the Township of Lower Public Works Department.
- 2) When municipal curbside collection is not provided for Designated Recyclable Materials, as is the case for those recyclables included in **Category 2**, it shall be the obligation of the generator to deliver or arrange for the delivery of such materials to the Cape May County Municipal Utilities Authority (CMCMUA) recycling facilities located at the Sanitary Landfill and/or Transfer Station as applicable, or to a private sector market for recycling. Category 2 [(a),(b),(c),(d),(e),(f)] materials may be delivered to Township of Lower Public Works Department 771 Seashore road Colds Springs.

SECTION 5 - COLLECTION OF RECYCLABLE MATERIALS

The collection of Source Separated Recyclable Materials shall be in the manner prescribed as follows:

- A. It is the responsibility of the property owner to provide adequate size and number of containers for the placement of recyclables for curbside collection as follows: Single Stream Recyclable Materials as defined in **Category 1(a)** shall be mixed together in one container. More than one container may be used for Single Stream Recyclable Materials; however, each container used should be marked or labeled to identify its contents as Single Stream Recyclable Materials. All set out containers which contain Single Stream Recyclable Materials shall be placed, prior to collection, between the curb and the sidewalk, or in the absence of curb and sidewalk, as near to the street as not to constitute a danger, where such receptacles shall be readily accessible to the collector without providing obstruction to pedestrians. The owner or occupant of the premises shall keep all receptacles clean and in safe handling condition. Receptacles or other items to be recycled shall be placed as noted above any time after 5:00 PM of the day immediately preceding the day of collection, but no later than 7:00 AM of the day of collection. After collection, any containers shall be removed from the curbside by no later than 7:00 PM of the day of collection.
- B. Container to be used for Single Stream Recyclable Materials shall have a capacity not to exceed 32 gallons and 50 pounds in weight.
- C. All receptacles or dumpsters shall be maintained in a clean and safe manner.
- D. The following materials must be Source Separated and recycled through the municipal recycling program in the following manner:
 - 1) Leaves and Grass – Leaves collected loose and curbside in accordance with the schedule adopted yearly. Grass in receptacle marked with material collected in accordance with the adopted yearly schedule. Leaves and grass are not to block rain flow to storm inlets. Recyclables may be delivered to the Township's Recycling Center.

- 2) Christmas Trees – Collection accordance to adopted yearly schedule.
 - 3) Brush, Tree Branches and Tree Stumps – Branches no longer than 7 feet and 6 inches in diameter free of debris will be collected curb side in accordance with the schedule adopted yearly. Branches are not to block rain flow to storm inlet. Branches may be delivered to the Township's recycling Center during regular scheduled business hours. Stumps are not accepted at the Township's Center but may be delivered to private sector NJDEP Permitted Class B facilities or the CMCMUA.
 - 4) White Goods – collected by appointment accordance to adopted yearly schedule. Doors are to be removed.
 - 5) Ferrous and Non-Ferrous Scrap – collected by appointment in accordance with adopted yearly schedule. Metal may also be delivered to the Township's Recycling Center during regular working hours.
 - 6) Rigid Plastics - May be taken to the Township's Recycling Center during regular business hours.
 - 7) Electronics, Computers, TV's- Generator may take to the Township's Recycling Center during regular business hours or take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- E. The following materials must be Source Separated and recycled by the generator at authorized CMCMUA recycling facilities or any NJDEP approved recycling center:
- 1) Wood Pallets and Crates – Generator may take to the CMCMUA recycling facilities or any NJDEP approved recycling center:
 - 2) Propane Tanks – Generator may take to the CMCMUA recycling facilities or any NJDEP approved recycling center:
 - 3) Tires – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
 - 4) Antifreeze – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
 - 5) Lead Acid Batteries – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
 - 6) Used Motor Oil – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
 - 7) Kerosene / #2 Heating Oil – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.

- 8) Used Oil Filters — Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- 9) Asphalt and Concrete – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- 10) Auto and Truck Bodies – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- 11) Contaminated Soil – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- 12) Commercial Cooking Grease – Generator may take to CMCMUA recycling facilities or any NJDEP approved recycling center.
- 13) Consumer Rechargeable NiCad and Small Sealed Lead Acid Batteries – Generator may take to the Township’s recycling Center or CMCMUA recycling facilities, or any NJDEP approved recycling center.

Subsection 5.1 - Residential Dwelling Compliance Requirements

The owner of each property shall be responsible for compliance with this Ordinance. For multifamily units, including but not limited to condominium complexes and seasonal hotel/motels and guest houses, the management or owner is responsible for setting up and maintaining the recycling system, including collection of Designated Recyclable Materials, except for those Designated Recyclable Materials for which municipal collection service is provided to multifamily units. Violations and penalty notices will be directed to the owner or management, in those instances where the violator is not easily identifiable. The owner or management shall issue notification and collection rules regarding recycling requirements to all new tenants when they arrive and with a reminder a minimum of every 6 months during their occupancy.

Subsection 5.2 - Commercial Establishment Compliance Requirements

- A. All commercial, business or industrial facilities shall be required to comply with the provisions of this Ordinance.
- B. The arrangement for collection of all categories of Designated Recyclable Materials hereunder shall be the responsibility of the commercial, institutional or industrial property owner or their designee, except for those specific Designated Recyclable Materials that are collected by the municipality from that property. All commercial, institutional or industrial properties at which litter is generated by employees or the public shall provide litter and recycling receptacles. These properties shall provide for separate recycling collection services for the contents of the recycling receptacles.
- C. Every business, institution or industrial facility shall report on a quarterly basis to the Municipal Recycling Coordinator, on such forms as may be prescribed, regarding recycling activities at their premises, including the amount and type of recycled material not placed curbside for municipal collection. If material is removed from the

premises by a hauler, recycler or paper shredder, the quantity and final disposition of the material is to be reported on the form.

- D. All food service establishments, as defined in the Health Code, shall, in addition to compliance with all other recycling requirements, be required to recycle Commercial Cooking Grease and/or cooking oil created in the processing of food or food products, and maintain such records as may be prescribed, for inspection by any code enforcement officer.

Subsection 5.3 - New Developments of Multi-Family Residential Units or Commercial, Institutional or Industrial Properties

- A. Any application to the planning board of the Township of Lower, for subdivision or site plan approval for the construction of multi-family dwellings of three or more units, single family developments of three or more units or any commercial, institutional or industrial development of 1,000 square feet or more, must include a recycling plan. This plan shall contain, at a minimum, the following:

- 1) A detailed analysis of the expected composition and amounts of solid waste and recyclables generated at the proposed development; and
- 2) Locations documented on the application's site plan that provide for convenient recycling opportunities for all owners, tenants, and occupants. The recycling area shall be of sufficient size, convenient location and contain other attributes (signage, lighting, fencing, etc.) as may be determined by the Municipal Recycling Coordinator.

- B. Prior to the issuance of a Certificate of Occupancy by the Township of Lower, the owner of any new multi-family housing or commercial, institutional or industrial development must supply a copy of a duly executed contract with a hauling company for the purposes of collection and recycling of Source Separated Designated Recyclable Materials for those locations or properties where the municipality does not otherwise provide this service.

SECTION 6 - PROHIBITION OF THE COLLECTION OF WASTE MIXED WITH RECYCLABLE MATERIALS

- A. It shall be unlawful for solid waste collectors to collect solid waste that is mixed with, or contains visible signs of, Designated Recyclable Materials. It is also unlawful for solid waste collectors to remove for disposal those bags or containers of solid waste which visibly display a warning notice sticker or some other device indicating that the container of solid waste contains Designated Recyclable Materials.
- B. It shall be the responsibility of the owner or occupant to properly segregate the uncollected waste for proper disposal and/or recycling. Allowing such unseparated solid waste and recyclables to accumulate at the curbside beyond 7:00 p.m. on the day of collection will be considered a violation of this ordinance and the local sanitary code.

C. Once placed in the location identified by this Ordinance, or any rules or regulations promulgated pursuant to this Ordinance, no person, other than any personnel authorized by the municipality or the owner or occupant responsible for placement of the Designated Recyclable Materials for collection, shall tamper with, collect, remove, or otherwise handle Designated Recyclable Materials. Upon placement of such Designated Recyclable Material, it shall become property of the municipality. It shall be a violation of this ordinance for any person not duly authorized to collect or pick up or cause to be collected or picked up any Recyclable Materials that are the property of the municipality as provided for above.

SECTION 7 - CONSTRUCTION, RENOVATION AND DEMOLITION DEBRIS RECOVERY PLAN

For all activities that require municipal approval such as construction, demolition or public event permits, a Designated Recyclable Materials plan shall be filed along with all other required permit conditions. The plan shall include provisions for the recovery of all Designated Recyclable Materials generated during construction, renovation and demolition activities, as well as, public events.

Subsection 7.1 - Compliance with Diversion Requirement

The Municipal Recycling Coordinator shall review the information submitted pursuant to this Section of the Ordinance and determine, prior to the issuance of the municipal approval or permit, whether the plan submitted by the owner of the entity carrying out the covered activity will comply or fail to comply with the recycling requirements set forth herein. The determination regarding compliance will be provided to the Municipal Public Works Director/Supervisor and the owner of the entity carrying out the covered project in writing. When such plan is deemed not compliant, the Municipal Recycling Coordinator shall include specific conditions to be implemented by the permit holder to achieve compliance. It shall be a violation of this Ordinance for any owner or permit holder to fail to comply with the recycling requirements set forth herein.

SECTION 8 - ENFORCEMENT

The Municipal Recycling Coordinator and the following designees Members of the Lower Township Police Department, the Code Enforcement Officer, and members of the county Health Department are hereby individually and severally empowered to enforce the provisions of this Ordinance. The enforcers of the ordinance may conduct inspections at the site of the generator, which consists of sorting through containers and opening of solid waste bags to detect, by sound or sight, the presence of any Designated Recyclable Material.

Additionally, the Cape May County Health Department (CMCHD) shall be empowered to enforce the provisions of this Ordinance. The municipality shall retain primary enforcement responsibility with the CMCHD serving in a secondary enforcement role which includes inspection of commercial establishments with proof of violations prior to law enforcement actions.

SECTION 9 – SEVERABILITY AND EFFECTIVE DATE

If any section, paragraph, subsection, clause or provision of this Ordinance shall be adjudged by a Court of competent jurisdiction to be invalid, such adjudication shall apply only to the section, paragraph, subsection, clause or provision so adjudged, and the remainder of this Ordinance shall be deemed valid and effective.

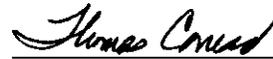
This Ordinance shall take effect immediately upon final passage and publication according to law.

SECTION 10 – RULES AND REGULATIONS

The governing body is hereby authorized to promulgate, from time to time, additional rules and regulations relating to the Source Separation, preparation, placement and collection of Recyclable Materials pursuant to the provisions of this program and subchapter; provided, however, that such rules and regulations shall not be inconsistent with terms and provisions of this subchapter and shall be approved by the governing body. Such rules and regulations shall be duly promulgated subsequent to publication so that the public has had notice thereof.

SECTION 11 – PENALTY

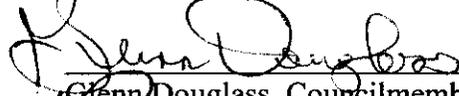
Any person or entity violating, or failing to comply with, any of the provisions provided in this Ordinance shall, upon conviction thereof, be punishable by a fine of not less than \$50 and not more than \$500 or by imprisonment for a term not to exceed 90 days, or by both such fine and imprisonment, in the discretion of the municipal judge. The continuation of any violation for each successive day shall constitute a separate offense, and the person, persons, or entity allowing or permitting the continuation of the violation may be punished as provided above for each separate offense. Any violation may be afforded at least one warning at the discretion of the enforcement designees before the issuance of any fines.



Thomas Conrad, Councilmember



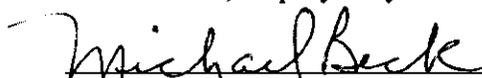
James Neville, Councilmember



Glenn Douglass, Councilmember

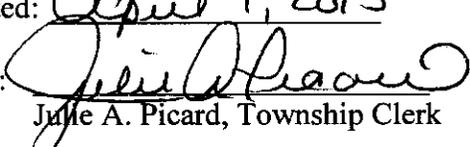


Norris Clark, Deputy Mayor



Michael Beck, Mayor

Adopted: April 1, 2013

Attest: 
Julie A. Picard, Township Clerk